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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,017	07/13/2001	Fred T. Parker	PA-5262-RFB	2502

7590

08/27/2003

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/905,017

Applicant(s)

PARKER ET AL.

Examiner

Roz Ghafoorian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5-23-2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 14 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) 13, 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

This application contains claims 13, 15-18 drawn to an invention nonelected with traverse in Paper No. 11. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8, 12, 14, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,769,830 to Parker, and further in view of US Patent No. 5,462,523 to Samson.

Parker teaches a medical device with a coil in a stressed radially expanded condition, a polymeric layer positioned over and contacting at least the coil, where the polymeric layer maintaining the coil in its stressed, radially expanded condition. The coil comprises of flat wire and the polymeric layer is made from nylon with two different durometers.

However Parker does not teach a braid extending over the coil, Samson teaches a medical device with a braid extending over the coil.

Therefore, it would have been obvious to one having ordinary skill in the art the time the invention was made to have combined Parker with Samson because according to Samson the braid will provide extra support for the coil and allows for better maneuverability of the catheter tip.

2. Claims 9-11, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.5769830 to Parker in view of U.S Patent No.5462523 to Samson et al, and further in view of U.S Patent No. 6053903 to Samson.

As mentioned above Parker and Samson ('523) teaches a medical device with a tube comprising a metal coil in a stressed radially expanded condition, a metal braid, and a polymeric layer positioned over and contacting the coil. The polymeric layer maintaining the coil in said stressed position. Furthermore, it teaches an inner lining beneath and in contact with the coil. The braid comprises of a plurality of crossed wires with a circular cross-section. And the diameter of the tube is 5-3mm.

However, Parker nor Samson teach a polymeric layer made from polyurethane or PTFE, or a heat shrinking tube with thermally bonded coil. Samson ('903) teaches a medical device with a tube comprising of a polymeric layer made from nylon or PTFE and a heat shrinking tube with thermally bonded coils. (Col.9, lines 30-35)

Therefore, it would have been obvious to one having ordinary skill in the art the time the invention was made to have combined these studies, because according to Samson ('903) this combination of material allows for a superior critical diameter and an

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integrated lubricous material without adding extraneous thickness and stiffness. (Col.7, lines 60-68)

### ***Response to Arguments***

Applicant's arguments filed 5-23-2003 have been fully considered but they are not persuasive.

- a. The applicant alleges the examiner has no motivation of combining the above mentioned prior arts however as mentioned above according to Samson the braid will provide extra support for the coil and allows for better maneuverability of the catheter tip.
- b. Applicant further alleges the combination of the above prior art will destroy the Samson patent however the rejection is Parker over Samson and since the primary reference is Parker is not destroyed during the combination of the two patents the rejection is deemed proper.
- c. Examiner has considered the applicant position on the restriction and still feels its deemed proper for the reasons stated in the last office action in paper NO.11 and hence the restriction is FINAL.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Applicant's arguments with respect to claims 1-12, 14, 19-21 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
August 25, 2003

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700